

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

Case No. 2024-022769-CA-01

KP INVESTMENTS MIAMI, LLC, Plaintiff,

v.

MARIO MIRABAL, Defendant.

DEFENDANT'S EMERGENCY MOTION TO VACATE AND STRIKE VOID
ORDERS ENTERED BY DISQUALIFIED JUDGE AND IMPROPER DENIAL
OF RECUSAL

I. INTRODUCTION

Defendant, Mario Mirabal, pro se, respectfully moves on an emergency basis to vacate and strike (1) the Order Denying Defendant's Motion to Stay/Abate, improperly signed by disqualified Judge Ariana Fajardo Orshan, (2) the Order Denying Defendant's Emergency Motion to Disqualify both Judge Orshan and Judge Simon, improperly entered by Judge Simon on August 29, 2025, and (3) to confirm that both judges are now deemed recused by operation of law. These orders are void and unconstitutional because they were entered by judges who lacked authority to act, disregarded a deemed grant of disqualification, and proceeded despite federal divestiture and pending appeals.

II. BACKGROUND

On August 20, 2025, Defendant filed a Motion to Stay/Abate for lack of jurisdiction.

That motion was denied not by presiding Judge Simon, but by Judge Orshan, who had already been disqualified. The order (Exhibit A) lacks an ePortal timestamp and appears backdated.

On July 22, 2025, Defendant filed a Notice of Deemed Grant of Disqualification under Rule 2.330, which by operation of law removed Judge Orshan from presiding. Despite this deemed grant, Judge Orshan subsequently signed the Stay/Abate denial order (Exhibit D).

On August 26, 2025, Defendant filed an Emergency Motion to Disqualify Judges Simon and Orshan with Exhibits A–J documenting docket irregularities and bias (Exhibit B).

On August 29, 2025, Judge Simon denied that disqualification motion (Exhibit C), improperly ruling on a motion that encompassed both herself and the Chief Judge, and effectively ratifying Orshan's void order.

On April 28, 2025, Defendant filed a Notice of Federal Jurisdiction (Exhibit E), advising that jurisdiction was divested to federal court as of March 28, 2025 (docket entry no. 44). Despite this notice, orders continued to be entered in violation of 28 U.S.C. § 1446(d).

On May 23, 2025, Defendant filed a Notice of Pending Rule 60(d)(3) Fraud Motions in Six Federal Appeals (docket entry no. 52), confirming that federal

appellate courts are actively considering fraud claims that directly control this case (Exhibit F).

III. LEGAL STANDARD

Fla. R. Jud. Admin. 2.330(f): A judge shall take no further action once a motion to disqualify is filed until resolved; orders entered in violation are voidable.

Peterson v. Asklepious, 833 So.2d 262 (Fla. 4th DCA 2002): Orders entered by a disqualified judge are voidable and must be vacated.

Livingston v. State, 441 So.2d 1083 (Fla. 1983): Judges must be disqualified where impartiality might reasonably be questioned.

Fla. Const. Art. I § 9; U.S. Const. Amend. XIV: Due process requires a neutral tribunal.

28 U.S.C. § 1446(d): State courts lose jurisdiction upon notice of removal; further action is void.

IV. ARGUMENT

Stay/Abate Denial Void (Ex. A). The order was signed by Judge Orshan, who had already been disqualified under Rule 2.330 and by deemed grant (Ex. D). It lacks ePortal timestamp integrity and is void.

Disqualification Denial Void (Ex. C). Judge Simon improperly denied a motion targeting both herself and Orshan, ratifying an order she did not sign, and shielding her superior. This creates structural conflict and is void.

Federal Divestiture and Appeals (Exs. E & F). Jurisdiction was divested to federal court March 28, 2025; multiple fraud appeals are pending. Orders entered after these notices are ultra vires.

Joint Disqualification. Chief Judge Orshan was deemed recused as of July 2025 (Ex. D). Judge Simon was disqualified by operation of law upon Defendant's Aug. 28, 2025 motion (Ex. B), which she improperly denied on Aug. 29 (Ex. C). Both judges should therefore be recognized as deemed recused and barred from further participation.

Structural Bias. Together, these actions demonstrate docket manipulation, disregard of federal supremacy, and denial of due process.

V. RELIEF REQUESTED

Defendant respectfully requests that the Court:

Vacate and strike the Order Denying Defendant's Motion to Stay/Abate (Exhibit A).

Vacate and strike the Order Denying Defendant's Motion to Disqualify Judges Simon and Orshan (Exhibit C).

Confirm that Chief Judge Orshan was deemed recused as of July 2025 and Judge Simon was disqualified by operation of law as of August 28, 2025, such that both are barred from further action in this case.

Recognize that jurisdiction has been divested to federal court (Exhibit E) and fraud motions are pending in six federal appeals (Exhibit F).

Enter a stay of all proceedings pending resolution of Defendant's federal appeals and Rule 1.540(d) motions before Judge Enriquez.

Grant such further relief as the Court deems just.

EXHIBIT INDEX

Exhibit A: Order Denying Motion to Stay/Abate (signed by disqualified Judge Orshan, no ePortal timestamp).

Exhibit B: Defendant's Emergency Motion to Disqualify Judges Simon and Orshan (filed Aug. 26, 2025, with Exhibits A–J).

Exhibit C: Judge Simon's Order Denying Disqualification (Aug. 29, 2025).

Exhibit D: Defendant's Notice of Deemed Grant of Disqualification (July 2025).

Exhibit E: Defendant's Notice of Federal Jurisdiction (April 2025).

Exhibit F: Defendant's Notice of Pending Rule 60(d)(3) Fraud Motions in Six Federal Appeals (May 23, 2025).

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal, Pro Se

563 W 49th Street

Miami Beach, FL 33140

Phone: 786-479-6596

Email: solphax@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Emergency Motion to Vacate and Strike Void Orders was filed via the Florida Courts E-Filing Portal on this 1st day of September, 2025, which shall serve all counsel of record. Courtesy copies were transmitted to chambers with all parties copied.

Counsel for Plaintiff KP Investments Miami, LLC

John Cunill, Esq. – john@cunill.com

Courtesy Copy to Chambers (with all parties copied):

Hon. Ariana Fajardo Simon – chambers email per court protocol

Hon. Ariana Fajardo Orshan – chambers email per court protocol

/s/ Mario Mirabal

Mario Mirabal, Pro Se

EXHIBIT A

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO: 2024-022769-CA-01

SECTION: CA32

JUDGE: Ariana Fajardo Orshan

KP INVESTMENTS MIAMI, LLC a Florida LLC

Plaintiff(s)

VS.

Mario Mirabal

Defendant(s)

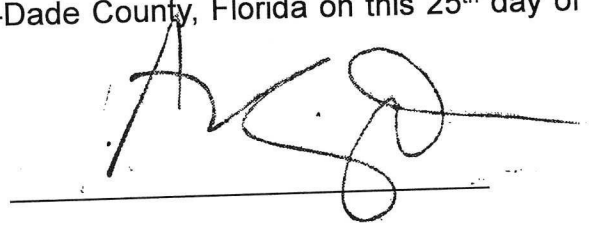
FILED FOR RECORD
2025 AUG 26 PM 4:01
JULIA CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
CIVIL #75

PROPOSED ORDER

THIS CAUSE came before the Court on Defendant's Notice of Lack of Jurisdiction and Motion to Stay/Abate Proceedings (Filed via ePortal on 8.20.20225). Upon review and being otherwise duly advised, it is hereby:

ORDERED AND ADJUDGED that Defendant's Motion is **DENIED**.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 25th day of August, 2025.


2024-022769-CA-01
Hon. Ariana Fajardo Orshan
CIRCUIT COURT JUDGE

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and
correct copy of the original on file in this
office August 28 AD 20 25
Juan Fernandez-Barquin, Esq.
Clerk of the Court and Comptroller
Deputy Clerk 



33985052

EXHIBIT B

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
Case No.: 2024-022769-CA-01

KP Investments Miami, LLC, Plaintiff,

v.

Mario Mirabal, Defendant.

_____/

DEFENDANT'S MOTION TO DISQUALIFY JUDGE SIMON AND
CHIEF JUDGE ORSHAN FOR BIAS AND LACK OF IMPARTIALITY,
AND TO STAY PROCEEDINGS PENDING RESOLUTION OF APPEALS
AND RULE 1.540(d) MOTIONS

I. INTRODUCTION

Defendant, Mario Mirabal, pro se, respectfully moves for disqualification of

the Honorable Judge Lurdes Simon and the Honorable Judge Ariana Fajardo Orshan, and for a stay of proceedings. This motion is based on Florida Rule of General Practice and Judicial Administration 2.330 (disqualification) and 2.215(b)(4) (assignment/reassignment), as well as constitutional guarantees of due process and impartial tribunal.

II. FACTUAL BACKGROUND

Jurisdiction was divested to federal court as of March 28, 2025 (docket entry no. 44).

Motion Properly Filed, Denial Signed by Wrong Judge. Defendant filed a Motion to Stay/Abate (Ex. A)

The order denying that motion was signed not by Judge Simon but by Chief Judge Orshan, despite her prior recusal, and it lacked the official ePortal timestamp (Ex. B)

Proposed Order Irregularities. The Judicial Assistant deleted Defendant's proposed order while entering Plaintiff's, as confirmed in email correspondence (Ex. C)

Docket Manipulation. Administrative Order 25-06, reassigning the case, was entered out of sequence raising appearance of backdating.(Ex. D)

Draft Orders Circulated by Opposing Counsel. Emails show opposing counsel

(Cunill) circulating a draft Rule to Show Cause (Ex. E),

and a draft sanctions order (Ex. F),

which were then reflected in court transmissions (Ex. G, H),

Proceedings Despite Pending Appeals. Plaintiff has noticed depositions while six appeals and fraud-based 1.540(d) motions remain unresolved.(Ex. I)

III. LEGAL STANDARD

Rule 2.330(f): A motion is legally sufficient if the facts would cause a reasonable person to fear they cannot receive a fair trial.

Rule 2.215(b)(4): The Chief Judge may reassign for good cause — but where the Chief Judge herself is implicated, impartiality requires stepping aside.

Hazel-Atlas Glass Co., 322 U.S. 238 (1944): Fraud upon the court voids orders at any time.

IV. ARGUMENT

A. Disqualification of Judge Simon.

Judge Simon's division deleted Defendant's filings (Ex. C), adopted opposing counsel's drafts (Exs. E-H), and proceeded despite Defendant's constitutional objections. This creates a well-founded fear of bias.

B. Disqualification of Chief Judge Orshan.

Judge Orshan signed an order (Ex. B) despite recusal, controlled reassignment (Ex. D), and remains implicated administratively. A reasonable person would fear partiality.

C. Reassignment Alone Cannot Cure Bias.

Even if the case is reassigned, proceeding while Federal appeals remain open and Enriquez's 1.540(d) fraud motions remain unresolved prejudices issues under higher review. The only fair remedy is a stay.

D. Stay Pending Resolution.

With federal appeals and Judge Enriquez's fraud rulings pending, proceeding here risks inconsistent judgments and violates the Supremacy Clause.

V. RELIEF REQUESTED

Defendant respectfully requests that this Court:

Disqualify Judge Simon pursuant to Rule 2.330.

Disqualify Chief Judge Orshan pursuant to Rule 2.330.

Reassign this case under Rule 2.215(b)(4) to a division not under Chief Judge Orshan's control, with the express direction that proceedings be stayed until jurisdictional questions are resolved.

Stay these proceedings in any event, pending:

Resolution of Defendant's appeals, including docket entry no. 52 (filed May 23, 2025, Notice of Federal Fraud-Based Motion under Review in the Eleventh Circuit under Rule 60(d)(3), Fraud Upon the Court);

Adjudication of Defendant's pending Rule 1.540(d) fraud motions before Judge Enriquez; and

Recognition that jurisdiction was divested to federal court as of March 28, 2025 (docket entry no. 44).

Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal, Pro Se

563 W 49th Street

Miami Beach, FL 33140

Phone: 786-479-6596

Email: solphax@gmail.com

08.28.2025

EXHIBIT INDEX

Exhibit A – Defendant’s Motion to Stay/Abate (time-stamped)

Exhibit B – Certified copy of Order Denying Stay/Abate, signed by Orshan

Exhibit C – JA email thread re proposed orders

Exhibit D – Docket snapshot showing AO 25-06 out of sequence

Exhibit E – Cunill email draft Rule to Show Cause

Exhibit F – Cunill email draft sanctions order

Exhibit G – Service of draft orders (court staff)

Exhibit H – Court Map notification of draft order service

Exhibit I – KP Notice of Taking Deposition

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Defendant's Motion to Disqualify Judge Simon and Chief Judge Orshan for Bias and Lack of Impartiality, and to Stay Proceedings Pending Resolution of Appeals and Rule 1.540(d) Motions, together with Exhibits A–J, has been filed via the Florida Courts E-Filing Portal on this 28th day of Aug, 2025. The filing has been served via ePortal and or email on the following:

Counsel for KP Investments Miami, LLC:

John Cunill, Esq.

john@cunill.com

(or the email on ePortal)

Judicial Officers (by email to chambers):

Hon. Ariana Fajardo Simon (Civil Division, Miami-Dade)

simon_chambers@jud11.flcourts.org

(or as per court protocol)

Hon. Ariana Fajardo Orshan (Chief Judge, 11th Judicial Circuit)

orshan_chambers@jud11.flcourts.org

(or as per court protocol)

Mario Mirabal, Pro Se

563 w 49 st

Miami Beach Fl 33140

786.479.6596

solphax@gmail.com

EXHIBIT A

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO.: 2024-022769-CA-01

KP INVESTMENTS MIAMI, LLC,

Plaintiff,

v.

MARIO MIRABAL,

Defendant.

DEFENDANT'S NOTICE OF LACK OF JURISDICTION AND MOTION
TO STAY/ABATE PROCEEDINGS PENDING FEDERAL REVIEW
AND PENDING RULE 1.540(d) MOTION

INTRODUCTION AND NOTICE

Defendant, Mario Mirabal, hereby gives notice that this Court presently lacks jurisdiction to proceed, and moves for an order staying and abating these proceedings.

NOT AN OFFICIAL COPY - PUBLIC ACCESS

This case was removed to the United States District Court for the Southern District of Florida as Case No. 1:25-cv-20747-JEM. That removal divested the state court of jurisdiction under 28 U.S.C. § 1446(d). Although the District Court entered an order of remand, Defendant timely appealed. Federal appellate review is ongoing in the U.S. Court of Appeals for the Eleventh Circuit as Case Nos. 25-10858, 25-10862, 25-11120, 25-11182, 25-11183, and 25-11254. Until those appeals are resolved and mandates issue, jurisdiction remains with the federal courts, and this Court is without authority to act.

Further underscoring this instability, Judge Orshan's prior actions in this case remain under review in the Florida Third District Court of Appeal (Case No. 3D2025-0540). Yet the case has been administratively reassigned to Judge Lourdes Simon without a formal recusal order while Orshan's rulings remain on appeal.

Finally, the Plaintiff's ejectment claims are wholly derivative of the foreclosure judgment at issue in Case No. 2018-018704-CA-01 (Deutsche Bank Nat'l Trust Co. v. Mirabal), where Defendant's Rule 1.540(d) motion remains pending before Judge Enriquez. Defendant further notes that the originating foreclosure action was dismissed with prejudice in 2020, making all derivative actions — including Plaintiff's ejectment claim — inconsistent with that final adjudication. Defendant's pending 1.540(d) motion seeks enforcement of that dismissal order against subsequent void proceedings.

For all of these reasons — federal removal and pending appeals, lack of jurisdiction under the Supremacy Clause, unresolved Rule 1.540(d) proceedings, and appellate review of Judge Orshan's conduct — Defendant respectfully moves this Court to stay and abate all proceedings.

NOT AN OFFICIAL COPY - PUBLIC ACCESS

FACTUAL BACKGROUND

This case was removed to the United States District Court for the Southern District of Florida as Case No. 1:25-cv-20747-JEM.

Following remand, Defendant timely appealed. The matter remains under review in the U.S. Court of Appeals for the Eleventh Circuit as Case Nos. 25-10858, 25-10862, 25-11120, 25-11182, 25-11183, and 25-11254.

Federal appellate review is ongoing and has not been resolved. These proceedings divest this Court of jurisdiction until final federal disposition.

Independently, in Case No. 2018-018704-CA-01 (Deutsche Bank Nat'l Trust Co. v. Mirabal), Defendant has filed a Rule 1.540(d) motion demonstrating that the foreclosure judgment underlying Plaintiff's title claims is void ab initio.

The foreclosure action was dismissed with prejudice in 2020, making any subsequent enforcement proceedings inconsistent with that final adjudication.

Plaintiff's ejectment claims in this action are entirely derivative of the foreclosure judgment at issue in the Enriquez case. If the 1.540(d) motion is granted, Plaintiff's claims here will be extinguished.

LEGAL BASIS

Supremacy Clause, U.S. Const. Art. VI, cl. 2: State courts are bound to respect the jurisdiction of federal courts once removal has occurred.

28 U.S.C. § 1446(d): Upon removal, state courts are divested of jurisdiction unless and until remand is final and unappealed. Here, multiple appeals are pending.

Florida Rule of Civil Procedure 1.540(d): A void judgment may be attacked at any time; until adjudication, derivative actions cannot lawfully proceed.

INCORPORATION BY REFERENCE

Defendant incorporates by reference the Affidavit of Forensic Facts in Support of Defendant's Rule 1.540(d) Motion, filed July 2025 in Case No. 2018-018704-CA-01, which outlines systemic assignment fraud, SEC (pooling) and REMIC violations, and 83 documented instances of fraud upon the court.

REQUEST FOR RELIEF

WHEREFORE, Defendant respectfully requests that this Court:

- A. Take notice of its lack of jurisdiction while federal appeals remain pending;
- B. Stay and abate all proceedings in this case, including Plaintiff's scheduled Motion for Sanctions on August 28, 2025;
- C. Defer to the pending federal appellate proceedings in the Eleventh Circuit — including Case Nos. 25-10858, 25-10862, 25-11120, 25-11182, 25-

11183, and 25-11254 — all of which involve overlapping issues of jurisdiction, fraud upon the court, and collusion between KP Investments Miami, LLC and Deutsche Bank, as well as the pending Rule 1.540(d) proceedings in Case No. 2018-018704-CA-01; and

D. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: Aug 20, 2025

/s/ Mario Mirabal

Mario Mirabal, Pro Se

563 W 49th Street

Miami Beach, FL 33140

786-479-6596

solphax@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Defendant's Notice of Lack of Jurisdiction and Motion to Stay/Abate Proceedings has been filed with the Florida Courts E-Filing Portal this ___ day of August, 2025, and served via electronic mail and/or electronic filing notification on all counsel of record.

Dated: Aug 20, 2025

Miami, Florida

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal, Pro Se

563 W 49th Street

Miami Beach, FL 33140

Phone: (786) 479-6596

Email: solphax@gmail.com

EXHIBIT B

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO: 2024-022769-CA-01

SECTION: CA32

JUDGE: Ariana Fajardo Orshan

KP INVESTMENTS MIAMI, LLC a Florida LLC

Plaintiff(s)

vs.

Mario Mirabal

Defendant(s)

FILED FOR RECORD
2025 AUG 26 PM 4:01
JAN. CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
CIVIL #75

PROPOSED ORDER

THIS CAUSE came before the Court on Defendant's Notice of Lack of Jurisdiction and Motion to Stay/Abate Proceedings (Filed via ePortal on 8.20.20225). Upon review and being otherwise duly advised, it is hereby:

ORDERED AND ADJUDGED that Defendant's Motion is **DENIED**.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 25th day of August, 2025.

2024-022769-CA-01
Hon. Ariana Fajardo Orshan
CIRCUIT COURT JUDGE

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and
correct copy of the original on file in this
office August 28 AD 20 25
Juan Fernandez-Barquin, Esq.
Clerk of the Court and Comptroller
Deputy Clerk



33985052

EXHIBIT C

Case 2024-022769-CA-01 – Defendant's Motion to Stay/Abate – Proposed Order for Judge Simon (CA02)

Inbox



mario mirabel <solphax@gmail.com>
to earagon, John



Wed, Aug 20, 3:30 AM (8 days ago)

Ms. Aragon Ortega,

Please confirm chambers' receipt of attached Defendant's **Notice of Lack of Jurisdiction and Motion to Stay/Abate** filed via the ePortal on 8.20.2025 in **Case No. 2024-022769-CA-01 (KP Investments Miami, LLC v. Mario Mirabal)**. I am submitting the attached **Proposed Order** (Word format) for Judge Simon's review. Thank you.

Respectfully,

Mario Mirabal

563 W 49th Street, Miami Beach, FL 33140

786-479-6596 | solphax@gmail.com

2 Attachments • Scanned by Gmail



Aragon Ortega, Estefany

to me, John

Wed, Aug 20, 12:21 PM (8 days ago)

Good morning all:

I am in receipt of this email. However, please note Proposed Orders must be submitted via courtMAP for the Court's review.

Best regards,

Estefany N. Aragon Ortega, MPA

Judicial Assistant to Judge Lourdes Simon

Administrative Judge, Circuit Civil Division

Dade County Courthouse, 73 W Flagler St, #635

(305) 349-7152 | earagon@jud11.flcourts.org

From: mario mirabel <solphax@gmail.com>

Sent: Wednesday, August 20, 2025 3:30 AM

To: Aragon Ortega, Estefany <earagon@jud11.flcourts.org>; John Cunill <john@acfirm.com>

Subject: Case 2024-022769-CA-01 – Defendant's Motion to Stay/Abate – Proposed Order for Judge Simon (CA02)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.



John Cunill

to Estefany, me

Wed, Aug 20, 12:25 PM (8 days ago)

Ms. Aragon-Ortega:

Plaintiff objects to this order and the manner in which it is being provided to the court without hearing.

Sent from my mobile device.

John Cunill Esq.

Law Offices of Adorno & Cunill PL

305.381.9999

305.775.4455

www.acfirm.com

john@acfirm.com

[1000 Brickell Ave Ste 1100 Miami, FL 33131](#)

From: Aragon Ortega, Estefany <earagon@jud11.flcourts.org>

Sent: Wednesday, August 20, 2025 12:21:27 PM

To: mario mirabel <solphax@gmail.com>; John Cunill <john@acfirm.com>

Subject: RE: Case 2024-022769-CA-01 – Defendant's Motion to Stay/Abate – Proposed Order for Judge Simon (CA02)

...

[Message clipped] [View entire message](#)

EXHIBIT D

le View



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Select a filter type



Image	Din	Date	Book/Page	Docket Entry	Event Type	Comments
		11/07/2025		Calendar Call	Hearing	
		08/28/2025		Motion Calendar	Hearing	PLAINTIFF S MOTION FOR SANCTIONS PURSUANT TO FLA. R. CIV. P. 1.380
	76	08/26/2025		Notice:	Event	Non-appearance
	75	08/26/2025		Order:	Event	PROPOSED- DEFENDANT'S MOTION IS DENIED
	74	08/20/2025		Notice:	Event	OF LACK OF JURISDICTION AND MOTION TO STAY/ABATE
				Notice of		August 28, 2025 at

EXHIBIT E

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

KP INVESTMENTS MIAMI, LLC, a
Florida Limited Liability Company,

Case No.: 2024-022769-CA-01

Plaintiff,

Vs

Judge.:

MARIO MIRABAL
and all those in possession

Defendant.

RULE TO SHOW CAUSE

THIS CAUSE came before the Court on August 28, 2025, upon Plaintiff's Motion for Sanctions pursuant to Florida Rule of Civil Procedure 1.380. The Court, having reviewed the record, heard argument of counsel, and being otherwise fully advised in the premises, **ORDERS AND ADJUDGES** as follows:

1. Defendant, Mario Mirabal, is hereby **ORDERED TO APPEAR** before this Court on Thursday, September 18, 2025, at 9:00 a.m., in Courtroom 6-1, 73 West Flagler Street, Miami, Florida 33130.
2. At that time and place, Defendant shall personally appear and **SHOW CAUSE** why he should not be held in contempt of court and sanctioned for failing to comply with this Court's prior order compelling his deposition and for failing to attend the deposition as noticed.
3. Plaintiff shall serve this Rule to Show Cause, along with the underlying Motion for Sanctions, upon Defendant in accordance with the Florida Rules of Civil Procedure, and shall file proof of service with the Court.
4. Defendant is hereby advised that failure to appear as ordered may result in sanctions, including but not limited to attorney's fees, striking of pleadings, entry of default, or other remedies authorized by law, without further notice.

DONE AND ORDERED, in chambers, at _____, _____ County, this _____ day of _____, _____.

HON. CIRCUIT JUDGE

Draft

EXHIBIT F

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

KP INVESTMENTS MIAMI, LLC, a
Florida Limited Liability Company,

Case No.: 2024-022769-CA-01

Plaintiff,

Vs

Judge.: Ariana Fajardo Oshan

MARIO MIRABAL
and all those in possession

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION FOR SANCTIONS

THIS CAUSE came before the Court on August 28, 2025, on Plaintiff's Motion for Sanctions pursuant to Fla. R. Civ. P. 1.380 [D.E. 69] ("Motion"). Plaintiff was represented by counsel, John Cunill, Esq. The Defendant, Mario Mirabal, refused to appear, despite being notified of the hearing. The Court, having reviewed the Motion, the record, and being otherwise fully advised in the premises, finds as follows:

1. On June 18, 2025, this Court entered an Order compelling Defendant, Mario Mirabal, to appear for deposition on July 22, 2025, at 10:00 A.M. at the Law Offices of Adorno & Cunill, PL, 1000 Brickell Avenue, Suite 1100, Miami, Florida 33131.
2. Defendant failed to appear at his court ordered deposition.
3. A Certificate of Non-Appearance was issued by the court reporter confirming Defendant's failure to attend.
4. Defendant's failure to appear constitutes a willful violation of this Court's June 18, 2025, Order and is sanctionable under Fla. R. Civ. P. 1.380(d).

Accordingly, it is **ORDERED AND ADJUDGED**:

A. Plaintiff's Motion for Sanctions is GRANTED.

B. Defendant is Ordered to appear in-person for deposition at the Law Offices of Adorno & Cunill, PL, 1000 Brickell Avenue, Suite 1100, Miami, Florida 33131, on September 10, 2025, at 10:00 A.M.

C. Defendant is expressly cautioned that failure to comply with this Order may result in escalating sanctions, including striking of pleadings and entry of default judgment pursuant to Fla. R. Civ. P. 1.380.

D. The Court reserves on monetary sanctions and further sanctions.

DONE AND ORDERED, in chambers, at _____, _____ County, this _____ day of _____, _____.

HON. CIRCUIT JUDGE

EXHIBIT G

Service of Court Documents

Inbox

**John Cunill**

to me, Amarilis, Law



10:50 AM (2 hours ago)

Filer: John Cunill 305-381-9999
Court: Eleventh Judicial Circuit in and for Miami-Dade County, Florida
Case #: 132024CA02276901GE01
Court Case #: 2024-022769-CA-01
Case Style: KP INVESTMENTS MIAMI, LLC a Florida LLC vs Mario Mirabal
Documents: 1. Proposed order on Motion for Sanctions
2. Proposed Order to Show Cause.

John Cunill, Esq.[Law Offices of Adorno & Cunill PL](#)

1000 Brickell Avenue, Suite 1100

Miami, Florida 33131

Phone: 305-381-9999**Fax:** 305-381-9898**Cell:** 305-775-4455**Web:** www.acfirm.com

NOTICE: The information in this e-mail is confidential and may contain information that is attorney-client privileged or otherwise exempt from disclosure. It is intended only for the use of the individual(s) or entity(ies) to whom it is addressed. If you are not an intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete the entire message (and any attachments) from their computer. Nothing contained in this disclosure notice shall be deemed to create an attorney-client relationship between sender and recipient where such a relationship does not otherwise exist. Thank you.

Este mensaje electrónico y cualquier archivo que se adjunte contiene información legalmente privilegiada y confidencial. Es para uso exclusivo del destinatario. Si usted ha recibido esta comunicación por error, por favor avísenos inmediatamente. Gracias.

EXHIBIT H

Service of Draft Court Document: 2024-022769-CA-01

Inbox



cmap-noreply@jud11.flcourts.org

to

10:22 AM (2 hours ago)



Service of Draft Court Document

Case Number: 2024-022769-CA-01
Case Style: KP INVESTMENTS MIAMI, LLC a Florida LLC vs Mario Mirabal
Section: CA02
Court Order: Order On Motion To Compel
Title: ORDER GRANTING PLAINTIFF'S MOTION FOR SANCTIONS
Status: Pending

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Service of Draft Court Document

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EXHIBIT I

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

KP INVESTMENTS MIAMI, LLC,
Plaintiff,

CASE NO.: 2024-022769-CA-01

SECTION: CA32

v.

MARIO MIRABAL,
Defendant.

_____ /

NOTICE OF DEPOSITION ON ORAL EXAMINATION
TO BE TAKEN IN PERSON

Please take notice that, pursuant to Rule 1.310 of the Florida Rules of Civil Procedure, Plaintiff, KP Investments Miami, LLC, will take the oral deposition of Defendant, Mario Mirabal, beginning on September 10, 2025 at 10:00 a.m., and continuing thereafter from day to day, excluding Sundays and holidays, until completed, at the Law Offices of Adorno & Cunill P.L. at 1000 Brickell Avenue, Suite 1100, Miami, FL 33131. The deposition will be taken in person, by Veritext Legal Solutions.

Any minor subpoenaed for testimony has the right to be accompanied by a parent or guardian at all times during the taking of testimony notwithstanding the invocation of the rule of sequestration of section 90.616, Florida Statutes, except on a showing that the presence of a parent or guardian is likely to have a material, negative impact on the credibility or accuracy of the minor's testimony, or that the interests of a parent or guardian are in actual or potential conflict with the interests of the minor.

NOTICE TO PERSONS WITH DISABILITIES
Americans with Disabilities Act (ADA)

If you qualify under the Americans with Disabilities Act (ADA) and need assistance, please visit the Eleventh Judicial Circuit of Florida or you may contact the ADA Coordinator at: E-mail: ADA Coordinator at ADA@jud11.flcourts.org; Voice Mail #: 305-349-7175; TDD #: 305-349-7174; Fax #: 305-349-7355. If you are hearing or voice impaired, please call 711 or 1-800-955-8771 for the Florida Relay Service.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August 2025, a true and correct copy was served to the Defendant, Mario Mirabal, by e-filing in accordance with the Florida Rules of Judicial Administration. Additionally, a copy was sent via email to the Defendant's email address at: solphax@gmail.com.

/s/ John Cunill

John Cunill

Attorney for Plaintiff

Florida Bar Number: 101733

Law Offices of Adorno & Cunill, PL

1000 Brickell Ave. Ste. 1100

Miami, FL 33131

Telephone: (305) 381-9999

Fax: (305) 381-9898

E-Mail: john@acfirm.com

EXHIBIT C

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2024-022769-CA-01

SECTION: CA32

JUDGE: Ariana Fajardo Orshan

KP INVESTMENTS MIAMI, LLC a Florida LLC

Plaintiff(s)

vs.

Mario Mirabal

Defendant(s)

**ORDER DENYING MOTION TO DEEM DISQUALIFICATION GRANTED AND
REQUEST FOR STAY**

THIS CAUSE came before the Court on Defendant, Mario Mirabal's "NOTICE OF DEEMED GRANT OF DISQUALIFICATION AND REQUEST FOR STAY PENDING FEDERAL AND RELATED PROCEEDINGS," which was filed on July 22, 2025.

Rule 2.330(d) requires that a motion to disqualify be served "no later than 30 days after the service of the motion as set forth in subdivision (d)." The motion for disqualification in this case was filed on June 22, 2025, but was not served on the undersigned as required by Rule 2.330(d). When there is a lack of proper service on the Judge, the 30-day deadline does not begin to run until the Judge actually receives the motion. *See Baker v. State*, 230 So. 3d 173, 174 (Fla. 1st DCA 2017); *Leila Corp. of St. Pete v. Ossi Consulting Engineers, Inc.*, 144 So. 3d 644, 646-47 (Fla. 2d DCA 2014). In this case, the motion was actually received by the undersigned on July 23, 2024, less than 30 days ago.

WHEREFORE, it is **ORDERED** and **ADJUDGED**:

The "NOTICE OF DEEMED GRANT OF DISQUALIFICATION AND REQUEST FOR STAY PENDING FEDERAL AND RELATED PROCEEDINGS" is **DENIED**.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 31st day of July, 2025.



2024-022769-CA-01 07-31-2025 10:31 AM

Hon. Ariana Fajardo Orshan

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

Electronically Served:

- John Cunill: john@acfirm.com
- John Cunill: jmcunill@gmail.com
- John Cunill: john@adornocunill.com
- Amy Adorno: amy@acfirm.com
- Mario Mirabal: solphax@gmail.com
- Michelle Arguelles: assistant@acfirm.com
- Mario Mirabal: solphax@gmail.com

EXHIBIT D

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY,
FLORIDA – CIVIL DIVISION
CASE NO.: 2024-022769-CA-01
SECTION: CA 03
(Hon. Ariana Fajardo Orshan – recused)

KP INVESTMENTS MIAMI, LLC,
Plaintiff,

v.

MARIO MIRABAL (Ariana Birencwajg),
Defendants.

_____/

NOTICE OF DEEMED GRANT OF DISQUALIFICATION AND
REQUEST FOR STAY PENDING FEDERAL AND RELATED
PROCEEDINGS

TO: The Honorable Nushin G. Sayfie, Chief Judge

Eleventh Judicial Circuit, Miami-Dade County, Florida

Defendant, Mario Mirabal, appearing pro se and as Attorney-in-Fact for co-Defendant Ariana Birencwajg, respectfully submits this Notice of Deemed Grant of Disqualification pursuant to Florida Rule of General Practice and Judicial Administration 2.160(f), and requests that all further proceedings in this matter be stayed pending resolution of jurisdictional matters now before the United States District Court, the Eleventh Circuit Court of Appeals, and the Hon. Javier Enriquez in Case No. 2018-018704-CA-01.

I. DISQUALIFICATION DEEMED GRANTED UNDER RULE 2.160(f)

On June 22, 2025, Defendant filed and served a Verified Motion to Disqualify the Honorable Judge Ariana Fajardo Orshan, pursuant to Florida Rule of Judicial Administration 2.160.

As of the date of this Notice, more than 30 days have passed without a ruling on that motion. Under Rule 2.160(f), where a judge has not entered an order granting or denying the motion within 30 days of service:

“The motion shall be deemed granted, and the moving party may seek an order from the chief judge.”

Accordingly, disqualification is now self-executing as a matter of law, and this Court is formally notified that the case must be reassigned.

II. REQUEST FOR STAY PENDING RELATED ACTIONS

In light of the now-granted disqualification, Defendant respectfully requests that the Chief Judge exercise her inherent administrative authority to:

Issue an administrative stay of all proceedings in this matter, including but not limited to:

Depositions;

Hearings or trial dates;

Motions to compel, sanction, or for summary judgment;

Maintain such stay pending outcome of:

Defendant's Rule 1.540(d) motion in Case No. 2018-018704-CA-01, which seeks to reinstate a 2020 final dismissal with prejudice that extinguishes the title interest asserted in this ejectment case;

Multiple pending federal appeals before the U.S. Court of Appeals for the Eleventh Circuit, involving overlapping parties, evidence, and property interests, as well as Rule 60(d)(3) filings and sealed submissions under the False Claims Act.

III. GROUNDS FOR STAY

This case is entangled with matters of federal jurisdiction, due process violations, fraudulent title conveyance, and state-federal conflict. Continued litigation at the trial level risks prejudicing ongoing federal review and final adjudication in:

Appeals already pending before the Eleventh Circuit;

Sealed federal proceedings involving Deutsche Bank and its assigns;

The state foreclosure case that forms the basis for Plaintiff's ejectment claim.

Failure to stay these proceedings risks irreparable procedural harm and institutional conflict between court rulings.

IV. PRAYER FOR RELIEF

Defendant respectfully requests:

That the Hon. Nushin G. Sayfie recognize that disqualification has been deemed granted under Rule 2.160(f);

That this case be reassigned accordingly;

That all proceedings in this matter be administratively stayed pending final adjudication of:

The pending Rule 1.540(d) motion in Case No. 2018-018704-CA-01;

All active Eleventh Circuit appeals and associated federal filings concerning

the same property.

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal (pro se)

Attorney-in-Fact for Ariana Birencwajg

563 W. 49th Street, Miami Beach, FL 33140

solphax@gmail.com | (786) 479-6596

Dated: July 22, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Courts E-Filing Portal on this 22nd day of July, 2025, to:

John Cunill, Esq.

Counsel for Plaintiff